

West's Code of Georgia Annotated
Title 15. Courts
Chapter 1. General Provisions (Refs & Annos)

Ga. Code Ann., § 15-1-19

§ 15-1-19. Operating under the influence court division

Effective: July 1, 2016

[Currentness](#)

<Text of section as added by [Laws 2016, Act 460, § 1-2](#). See, also,
text of [section 15-1-19](#) as added by [Laws 2016, Act 605, § 1](#).>

(a)(1) As used in this subsection, the term “risk and needs assessment” means an actuarial tool, approved by the Council of Accountability Court Judges of Georgia and validated on a targeted population, scientifically proven to determine an individual's risk to recidivate and to identify criminal risk factors that, when properly addressed, can reduce such individual's likelihood of committing future criminal behavior.

(2) Any superior, state, or juvenile court that has jurisdiction over a violation of [Code Section 40-6-391](#) or [52-7-12](#) may establish an operating under the influence court division to provide an alternative to the traditional judicial system for disposition of such cases.

(3) In any case which arises from a violation of [Code Section 40-6-391](#) or [52-7-12](#) or is ancillary to such conduct and the defendant meets the eligibility criteria for the operating under the influence court division, the court may assign the case to the operating under the influence court division:

(A) Prior to the entry of the sentence, if the prosecuting attorney consents;

(B) As part of a sentence in a case; or

(C) Upon consideration of a petition to revoke probation.

(4) Each operating under the influence court division shall establish a planning group to develop a work plan. The planning group shall include the judges, prosecuting attorneys, public defenders, community supervision officers, probation officers serving pursuant to Article 6 of Chapter 8 of Title 42, and persons having expertise in the field of substance abuse. The work plan shall address the operational, coordination, resource, information management, and evaluation needs of the operating under the influence court division. The work plan shall include operating under the influence court division policies and practices related to implementing the standards and practices developed pursuant to paragraph (5) of this subsection. The work plan shall ensure a risk and needs assessment is used to identify the likelihood of recidivating and identify the needs that, when met, reduce recidivism. The work plan also shall ensure that operating under the influence court division eligibility shall be focused on moderate-risk and high-risk offenders

as determined by a risk and needs assessment. The operating under the influence court division shall combine judicial supervision, treatment of operating under the influence court division participants, and drug testing.

(5)(A) The Council of Accountability Court Judges of Georgia shall establish standards and practices for operating under the influence court divisions, taking into consideration guidelines and principles based on current research and findings that are published by the National Drug Court Institute, the National Center for DWI Courts, and the Substance Abuse and Mental Health Services Administration and related to practices shown to reduce recidivism of offenders with alcohol or drug abuse problems. Standards and practices shall include, but shall not be limited to, the use of a risk and needs assessment to identify the likelihood of recidivating and identify the needs that, when met, reduce recidivism. The Council of Accountability Court Judges of Georgia shall update its standards and practices to incorporate research, findings, and developments in the operating under the influence court field. Each operating under the influence court division shall adopt policies and practices that are consistent with the standards and practices published by the Council of Accountability Court Judges of Georgia.

(B) The Council of Accountability Court Judges of Georgia shall provide technical assistance to operating under the influence court divisions to assist them with the implementation of policies and practices, including, but not limited to, guidance on the implementation of risk and needs assessments in operating under the influence court divisions.

(C) The Council of Accountability Court Judges of Georgia shall create and manage a certification and peer review process to ensure operating under the influence court divisions are adhering to the Council of Accountability Court Judges of Georgia's standards and practices and shall create a waiver process for operating under the influence court divisions to seek an exception to the Council of Accountability Court Judges of Georgia's standards and practices. In order to receive state appropriated funds, any operating under the influence court division established on and after July 1, 2017, shall be certified pursuant to this subparagraph or, for good cause shown to the Council of Accountability Court Judges of Georgia, shall receive a waiver from the Council of Accountability Court Judges of Georgia.

(D) On and after July 1, 2017, the award of any state funds for an operating under the influence court division shall be conditioned upon an operating under the influence court division attaining certification or a waiver by the Council of Accountability Court Judges of Georgia. On or before September 1, the Council of Accountability Court Judges of Georgia shall publish an annual report listing certified operating under the influence court divisions.

(E) The Council of Accountability Court Judges of Georgia shall develop and manage an electronic information system for performance measurement and accept submission of performance data in a consistent format from all operating under the influence court divisions. The Council of Accountability Court Judges of Georgia shall identify elements necessary for performance measurement, including, but not limited to, recidivism, the number of moderate-risk and high-risk participants in an operating under the influence court division, drug testing results, drug testing failures, participant employment, the number of participants who successfully complete the program, and the number of participants who fail to complete the program.

(F) On or before July 1, 2017, and every three years thereafter, the Council of Accountability Court Judges of Georgia shall conduct a performance peer review of the operating under the influence court divisions for the purpose of improving operating under the influence court division policies and practices and the certification and recertification process.

- (6) A court instituting the operating under the influence court division may request the prosecuting attorney for the jurisdiction to designate one or more prosecuting attorneys to serve in the operating under the influence court division and may request the public defender, if any, to designate one or more assistant public defenders to serve in the operating under the influence court division.
- (7) The clerk of court for the court that is instituting the operating under the influence court division or such clerk's designee shall serve as the clerk of the operating under the influence court division.
- (8) The court instituting the operating under the influence court division may request community supervision officers, probation officers serving pursuant to Article 6 of Chapter 8 of Title 42, and other employees of the court to perform duties for the operating under the influence court division. Such individuals shall perform duties as directed by the judges of the operating under the influence court division.
- (9) The court instituting the operating under the influence court division may enter into agreements with other courts, agencies, and private corporations, private enterprises, private agencies, or private entities providing services pursuant to Article 6 of Chapter 8 of Title 42 for the assignment of personnel from such other entities to the operating under the influence court division.
- (10) Expenses for salaries, equipment, services, and supplies incurred in implementing this Code section may be paid from state funds, funds of the county or political subdivision implementing such operating under the influence court division, federal grant funds, and funds from private donations.
- (b)(1) Each operating under the influence court division shall establish criteria which define the successful completion of the operating under the influence court division program.
- (2) If the operating under the influence court division participant successfully completes the operating under the influence court division program as part of a sentence imposed by the court:
- (A) A judge presiding in such court division shall not order the dismissal of any offense involving or arising from a violation of [Code Section 40-6-391](#) or [52-7-12](#); and
- (B) A judge presiding in such court division shall not order the restriction or vacation of a conviction of any offense involving or arising from a violation of [Code Section 40-6-391](#) or [52-7-12](#).
- (3) If the operating under the influence court division participant successfully completes the operating under the influence court division program as part of a sentence imposed by the court, the sentence of the operating under the influence court division participant may be reduced or modified.
- (4) Any plea of guilty or nolo contendere entered pursuant to this Code section shall not be withdrawn without the consent of the court.

(c) Any statement made by an operating under the influence court division participant as part of participation in such court division, or any report made by the staff of such court division or program connected to such court division, regarding a participant's substance usage shall not be admissible as evidence against the participant in any legal proceeding or prosecution; provided, however, that, if the participant violates the conditions of his or her participation in the program or is terminated from the operating under the influence court division, the reasons for the violation or termination may be considered in sanctioning, sentencing, or otherwise disposing of the participant's case.

(d) Notwithstanding any provision of law to the contrary, operating under the influence court division staff shall be provided, upon request, with access to all records relevant to the treatment of the operating under the influence court division participant from any state or local government agency. All such records and the contents thereof shall be treated as confidential, shall not be disclosed to any person outside of the operating under the influence court division, and shall not be subject to Article 4 of Chapter 18 of Title 50, relating to open records, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding. Such records and the contents thereof shall be maintained by the operating under the influence court division and originating court in a confidential file not available to the public.

(e) Any fees received by an operating under the influence court division from an operating under the influence court division participant as payment for substance abuse treatment and services shall not be considered as court costs or a fine.

(f) The court may have the authority to accept grants, donations, and other proceeds from outside sources for the purpose of supporting the operating under the influence court division. Any such grants, donations, or proceeds shall be retained by the operating under the influence court division for expenses.

Credits

[Laws 2016, Act 460, § 1-2, eff. July 1, 2016.](#)

Ga. Code Ann., § 15-1-19, GA ST § 15-1-19

The statutes and Constitution are current with legislation passed during the 2016 Session of the Georgia General Assembly. The statutes are subject to changes by the Georgia Code Commission.